

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AUSTIN EDWARD LIGHTFEATHER,

Plaintiff,

vs.

CITY OF LINCOLN,

Defendant.

4:20CV3118

MEMORANDUM AND ORDER

Plaintiff filed a Notice of Interlocutory Appeal (filing 73) on March 1, 2021, and the court determined that Plaintiff may not proceed in forma pauperis on appeal as the appeal was not taken in good faith (filing 76). On March 22, 2021, the Eighth Circuit Court of Appeals directed Plaintiff to either pay the \$505 appellate filing fee or file a motion for leave to proceed in forma pauperis in that court within 28 days. Plaintiff now has filed a motion to strike his interlocutory appeal and what the court construes as a motion for leave to appeal in forma pauperis. (Filings 84 & 85.) As a general rule, a federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously, and the filing of a notice of appeal confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal. *Hunter v. Underwood*, 362 F.3d 468, 475 (8th Cir. 2004). Accordingly,

IT IS ORDERED that:

1. To the extent Plaintiff seeks permission from this court to proceed on appeal in forma pauperis, his motion (filing 85) is denied as moot.
2. The Clerk of Court is directed to terminate the motions in filing 84 and filing 85 and transmit Plaintiff's motion to strike interlocutory appeal (filing

84) and motion for leave to appeal in forma pauperis (filing 85) to the Eighth Circuit Court of Appeals.

Dated this 24th day of March, 2021.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge